

The Issues of Exceptional Punishment - Abstract

The aim of this thesis is to provide a comprehensive overview about a criminal law's legal institute of the exceptional punishment, comprising of its historical development in our territory, most of the matters regarding its applicable legal regulation in the Czech republic, analysis of a specific case in which this punishment had been imposed, comparison with selected foreign legal regulations also including a disputation on death penalty as its possible alternative.

The first chapter is focused on defining the term of punishment and its function in general. It compares two basic theories that differ from each other in terms of distinct approaches to the punishment's purpose. While the absolute theory considers punishment a retribution, the relative theory regards it as a mean of resocialization of the perpetrator. However, the current concept of punishment is based on the mixed theory that constitutes a link between those two above-mentioned. The aim of this chapter is to define the specific purpose of the exceptional punishment that proceeds from the general purpose of punishment based on the mixed theory.

With regard to the fact that the term of exceptional punishment needs to be construed in both time and territorial context, the second chapter is devoted to a detailed analysis of historical development of this criminal law's sanction in our territory.

The crucial part of the thesis consists of the third, the following-up fourth and subsequently the fifth chapter. The mostly theoretical third part describes significant aspects of the exceptional punishment's legal regulation in the Czech republic. Especially, the legal conditions of its imposition including the judicial interpretation of certain vague terms, the execution of this punishment itself or the matters of conditional discharge. Following-up to the theoretical third chapter, the fourth one is devoted to description of a specific case in which the exceptional punishment had been in fact imposed, mainly for the purpose of outlining the gravity of the crimes whose perpetration may lead to such sentencing. The fifth chapter is subsequently focused on comparison of the Czech legal regulation with selected foreign ones, including countries in which the death penalty still applies, e.g. the USA.

The final chapter then considers the death penalty as a possible alternative to long-term imprisonment. It summarizes the most significant arguments of both the abolitionist and retentionist movement and ponders over selected ones of them that are frequently subject to dispute. Subsequently, it deals with international and European human rights charters related

to this matter that also creates, besides other sources, a basis of applicable legal regulation. Finally, the thesis involves the enshrinement of the inadmissibility of the death penalty in the Czech Republic on a constitutional level and the evaluation of compliance of long-term imprisonment with the Charter of Fundamental Rights and Freedoms.